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**GREENBERG TRAUIG, LLP**

Ian C. Ballon (SBN 141819)  
1900 University Avenue, 5th Floor  
East Palo Alto, CA 94303  
Main number: (650) 328-8500  
Direct fax: (650) 462-7881  
Email: ballon@gtlaw.com

**GREENBERG TRAUIG, LLP**

Lisa C. McCurdy (SBN 228755)  
2450 Colorado Avenue, Suite 400 East  
Santa Monica, California 90404  
Telephone: (310) 586-7700  
Facsimile: (310) 586-7800  
Email: mcurdyl@gtlaw.com

Attorneys for Plaintiff, West Marine, Inc.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

WEST MARINE, INC.

Plaintiff,

vs.

WATERCRAFT SUPERSTORE,  
INC., and DOES 1 through 50,  
inclusive,

Defendants.

CASE NO. 5:11-cv-04459-HRL

STIPULATION AND ~~PROPOSED~~  
ORDER

**(AS MODIFIED BY THE COURT)**

1 The parties in this case have reached a stipulation that they jointly request to be  
2 entered as an order of the Court. This stipulation to allow Plaintiff West Marine, Inc. to  
3 conduct limited jurisdictional discovery and setting a briefing schedule regarding  
4 Defendant Watercraft Superstore's motion to dismiss or, in the alternative, transfer  
5 venue, is entered into by and between Plaintiff and Defendant through their counsel of  
6 record.

### 7 RECITALS

8 This Stipulation is entered into with reference to the following facts:

9 A. On August 11, 2011, Plaintiff West Marine filed its Complaint against  
10 Defendant Watercraft Superstore, in the Superior Court for the State of California,  
11 County of Santa Cruz.

12 B. On September 7, 2011, Watercraft Superstore filed its notice of removal,  
13 removing this case from the Superior Court for the State of California, County of Santa  
14 Cruz, to the United States District Court for the Northern District of California.

15 C. On September 14, 2011, Watercraft Superstore filed its motion to dismiss  
16 the Complaint or, in the alternative, transfer venue to the Middle District of Florida. The  
17 motion alleges that this Court has no personal jurisdiction over Watercraft Superstore and  
18 that, if the Complaint is not dismissed, the Middle District of Florida is a more  
19 convenient and appropriate venue and the case should, thus, be transferred. Watercraft  
20 Superstore's motion is currently set to be heard before this Court on October 25, 2011,  
21 with West Marine's responsive pleading due on September 28, 2011.

22 D. Counsel for Plaintiff and Defendant have met and conferred in writing and  
23 telephonically regarding an agreement by which West Marine would be permitted to take  
24 limited jurisdictional discovery, and regarding a corresponding briefing schedule with  
25 respect to Watercraft Superstore's motion to dismiss. The dates set forth in this  
26 Stipulation are based on the parties' best approximation of the dates on which  
27 jurisdictional discovery will be completed.

**STIPULATION**

Based upon the foregoing, the parties hereby stipulate, by and through their counsel of record, as follows:

1. West Marine will serve interrogatories and/or requests for production of documents on jurisdictional issues on or before September 28, 2011.

2. West Marine will serve upon Watercraft Superstore a Rule 30(b)(6) deposition notice concerning jurisdictional matters. The deposition will take place in Florida, on a mutually agreeable date and time, and a mutually agreeable location <sup>within 60 days of the date of this order</sup>.

3. All discovery discussed in this Stipulation, including both written discovery and the Rule 30(b)(6) deposition, will be limited to jurisdictional issues. In the event that West Marine notices a subsequent Rule 30(b)(6) deposition of Watercraft Superstore, the subsequent deposition will not be duplicative and West Marine will not ask jurisdictional questions in any later Rule 30(b)(6) deposition that were already covered in the earlier deposition.

4. The time for West Marine to respond to Watercraft Superstore's motion to dismiss shall be extended to December 14, 2011. West Marine will file its opposition to Watercraft Superstore's motion to dismiss on or before December 14, 2011, and Watercraft Superstore's reply in support of its motion to dismiss will be filed on or before December 21, 2011.

5. In the event that completion of discovery takes longer than contemplated in this Stipulation, the parties will meet and confer in good faith regarding any necessary adjustment to the briefing schedule.

6. The hearing on Watercraft Superstore's motion to dismiss shall be continued to ~~a date and time to be set by the Court, following the filing of Watercraft Superstore's reply.~~ January 10, 2012, at 10:00 a.m. in Courtroom 2, 5th Floor, 280 South 1st. St., San Jose, CA 95113.

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1 Dated: September 28, 2011

Respectfully submitted,  
GREENBERG TRAURIG, LLP

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4 By: /s/ Lisa C. McCurdy  
LISA C. McCURDY  
Attorneys for Plaintiff  
WEST MARINE, INC.

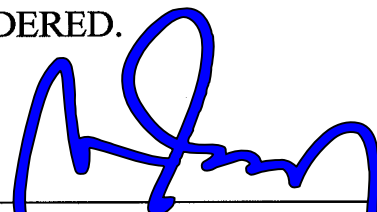
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7  
8 DATED: September 28, 2011

MOUNT, SPELMAN & FINGERMAN, P.C.

9  
10 By: /s/ Daniel H. Fingerman  
DANIEL H. FINGERMAN  
Attorneys for Defendant  
WATERCRAFT  
11 SUPERSTORE, INC.

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14  
15 PURSUANT TO STIPULATION, IT IS SO ORDERED.

16 DATED: October 19, 2011

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18   
19 HON. HOWARD R. LLOYD  
UNITED STATES DISTRICT COURT  
MAGISTRATE JUDGE

GENERAL ORDER NO. 45 DECLARATION

I, Lisa C. McCurdy, hereby attest that I obtained concurrence in the filing of the document by all other signatories to this stipulation and proposed order.

Dated: September 28, 2011

Respectfully submitted,  
GREENBERG TRAURIG, LLP

By: /s/ Lisa C. McCurdy  
LISA C. McCURDY  
Attorneys for Plaintiff  
WEST MARINE, INC.

**C11-04459 HRL Notice will be electronically mailed to:**

|                        |                      |
|------------------------|----------------------|
| Ian Ballon             | ballon@gtlaw.com     |
| Lisa C. McCurdy        | mccurdy1@gtlaw.com   |
| Benjamin Ross Lemke    | blemke@mount.com     |
| David Harlan Fingerman | dfingerman@mount.com |
| Kathryn G. Spelman     | kspelman@mount.com   |

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